In the High Court of Uttaranchal, at Nainital
A.O.No. 1325/2001
(Old No. 611/1985)

Oriental Insurance Co. Ltd. Through its
Senior Divisional Manager.... O.P./Appellant.

Vs.

1-Ranjeet Singh Bisht S/o Alam Singh
2-Smt. Maya Devi W/o Ranjeet Singh Bisht
Both R/o Village Lodli P.C. Bedikhal,
District Garhwal ..Respondents.

Sri Deepak Rawat, Advocate for the appellant.
Sri R.P. Nautiyal, learned counsel for the respondents.

Hon'ble B.C. Kandpal, J.

This Appeal from Order, U/S 110-D of the Motor Vehicles Act, has been preferred by the Oriental Insurance Company against the judgment and award dated 3.6.1985, in MACP No. 5 of 1984, passed by MACT/District Judge, Pauri Garhwal, by which the Tribunal has awarded an amount of Rs. 30,000/- as compensation along with an interest @ 6% per annum to the claimants Ranjeet Singh Bisht and others.

2- Heard Sri Deepak Rawat, learned counsel for the appellant and Sri R.P. Nautiyal, learned counsel for the claimants/respondents and perused the record.

3- Learned counsel for the appellant has confined his argument only to the point that the liability of the Insurance Company at the time of the accident in view of the provisions of Section 95(1)(b) (ii) read with Sections 95(2)(b) (ii) and 95 (2) of the Motor Vehicles Act, was up to an extent of Rs. 5000/- each passengers and Rs. 75,000/- in all where the vehicle was registered to carry more than 30 and not more than 60 passengers. The argument of the learned

counsel for the appellant is that a passenger bus is involved in this case, which was carrying the passengers for hire or reward at the time of the accident, therefore, the provisions contained in Section 95(1) (b)(ii) read with Section 95 (2)(b)(ii) of the M.V.Act become applicable in this case.

4- The record reveals that the motor bus No. USY 3180 on 8-7-1983 while on way from Kotdwar to Pauri Garhwal, fell down from the road towards its right side. The bus was full of passengers and out of the total passenger, 7 or 8 passengers died at the spot while the others suffered injuries. The Tribunal, after the assessment of the evidence, awarded an amount of Rs. 30,000/- to the claimants in this case as compensation, who are the parents of the deceased Surya Pal Singh Bisht, who died in the accident.

5- The Hon'ble Apex Court in the case of **Road Transport Company Vs. Bhan Singh and another,** reported in **II (1998) ACC 190 (SC)** has held that the liability of the Insurance Company will have to be determined under Section 95(2) (b)(ii) of the M.V. Act.

6- In the instant case it is not in dispute that at the relevant time Section 95 (2)(b)(ii) MV Act limited the liability of the Insurance Company to the extent of Rs. 5,000/- for each passengers and Rs. 75000/- in all, where the vehicle was registered to carry more than 30 but not more than 60 passengers.

7- The vehicle involved in the accident in the present case was a passenger bus, in which the passengers were carried for hire or reward. Therefore, in view of the Hon'ble Apex Court's decision the liability of the

Insurance Company would be only up to an extent of Rs. 5,000/- per passenger.

8- The appeal is thus allowed. The impugned judgment and award dated 3.6.1985, in MACP No. 5 of 1984, passed by MACT/District Judge, Pauri Garhwal, is modified upto the extent that the Oriental Insurance Company/appellant is liable to pay the compensation for Rs. 5,000/- only.

9- It is made clear that the liability of the owner of the offending bus is not affected in any manner to pay the rest of the amount of the impugned award.

(B.C. Kandpal, J.)

Dated: 06-09-2006
ISB